



# K A N S A S

D. KENT HURN, CHAIRPERSON

DEPARTMENT OF ADMINISTRATION  
CIVIL SERVICE BOARD

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To: George Vega, Interim Director, Division of Personnel Services  
Tracy Diel, Director, Office of Administrative Hearings  
D. Kent Hurn, Chairman, Civil Service Board

From: Peggy Graham, Secretary, Civil Service Board

Date: April 17, 2006

Re: Quarterly Update

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The following reflects the Civil Service Board cases in which action was taken since the January 15, 2006 quarterly report:

A. Cases Decided and/or Disposed Of:

1. **Name Removed**, 3-day suspension *affirmed*  
**Department of Health and Environment**  
Administrative Assistant. The appellant repeatedly left work without authorization or failed to come to work as scheduled over a period of months. She received a written reprimand and a one day suspension without pay for abuse of time and leave. When she continued to abuse her time and leave, she received a 3-day suspension without pay. After considering all of the evidence, the Board found the decision of the appointing authority to be reasonable.
2. **Name Removed**, dismissal *affirmed*  
**Kansas Neurological Institute**  
Developmental Disability Technician. The appellant was repeatedly absent from her job in conjunction with her regularly scheduled days off over a period of 22 months. She was repeatedly counseled about the need for her to report to work as scheduled. She received a written reprimand and a one day suspension without pay for abuse of time and leave. Her attendance did not improve, however, and she was dismissed. After considering all of the evidence, the Board found the decision of the appointing authority to be reasonable.
3. **Name Removed**, 1-day suspension *affirmed*  
**Department of Corrections**  
Parole Officer II. The appellant failed to enter data into the agency computer system that would have released an offender from supervision when the offender maxed out his sentence. As a

result, the offender was later arrested in conjunction with his parole status. Because he had maxed out his sentence, he should not have been arrested. The appellant's failure to timely enter the necessary information into the computer system directly caused the false arrest of the offender. After considering all of the evidence, the Board found the decision of the appointing authority to be reasonable.

4. **Name Removed**, dismissal *affirmed*  
**Parsons State Hospital**  
Developmental Disability Technician. The appellant threw a pen at a resident striking him in the chest, told the resident "I hate you", used profanity towards and in the presence of residents, shoved a resident into a chair and used intimidation to prevent co-workers from reporting her actions. After considering all of the evidence, the Board found the decision of the appointing authority to be reasonable.
5. **Name Removed**, 5-day suspension *affirmed*  
**Department of Corrections**  
Parole Officer I. The appellant failed to answer messages left for him when he was assigned as the duty officer for the weekend. Because he failed to respond to the messages left for him, law enforcement officers were unable to confirm whether outstanding warrants existed for several individuals. The Monday following his weekend as duty officer, the appellant's supervisor attempted to locate him to discuss the missed messages and learned that he has signed himself out of the office for 3 hours to go to the YMCA for personal relaxation without authorization or approval. After considering all of the evidence, the Board found the decision of the appointing authority to be reasonable.
6. **Name Removed**, 5-day suspension *withdrawn*  
**Department of Transportation**  
Safety and Health Specialist. The appellant failed to identify himself at a work site and drove through a construction area without the required pilot car and initiated at least four confrontations with KDOT employees at the work site. The appellant withdrew his request for a hearing prior to the scheduled hearing date.
7. **Name Removed**, 20-day suspension without pay *modified*  
**Department of Labor**  
Safety Consultant. The appellant confronted an OSHA employee during a meeting in a hostile and inappropriate manner, just weeks after being instructed by his supervisor that he was to maintain a harmonious relationship with OSHA. After considering all of the evidence, the Board found that the appellant was insubordinate but did not commit the other violations alleged by the agency. Consequently, the Board modified the decision of the appointing authority from a 20-day suspension to a 10-day suspension.
8. **Name Removed**, dismissal *withdrawn*  
**Kansas State University**  
Senior Administrative Assistant. The appellant was given one last chance to improve her attendance in lieu of dismissal. Prior to any further agency action, the appellant filed her appeal with the Board. The appellant later withdrew her request for a hearing prior to the scheduled hearing date.

9. **Name Removed**, dismissal *affirmed*  
**Department of Social and Rehabilitation Services**  
Administrative Specialist. The appellant obtained information about an SRS client through her employment with SRS. The client happened to be the wife of the appellant's nephew. The appellant shared confidential information about the client with her sister, and her nephew's mother, in violation of the agency's confidentiality requirement. After hearing all of the evidence, the Board found the decision of the appointing authority to be reasonable.
10. **Name Removed**, demotion *affirmed*  
**Department of Transportation**  
Highway Maintenance Supervisor. The appellant was having trouble supervising one of his employees. Rather than work with the employee or his own supervisor, the appellant chose to do nothing believing it wouldn't matter anyway. The problems came to a head when the employee accused the appellant of favoring another employee under the appellant's supervision. The appellant lost his temper and became verbally abusive toward the employee. The appellant's behavior showed an inability to supervise effectively and to manage his employees. As a result, the agency demoted him to an Equipment Operator Senior position. After hearing all of the evidence, the Board found the decision of the appointing authority to be reasonable.
11. **Name Removed**, demotion *withdrawn*  
**Department of Social and Rehabilitation Services**  
Program Consultant I. The appellant was demoted as part of a reorganization conducted by the agency. The agency filed a motion for summary judgment alleging that the Board did not have jurisdiction over non-disciplinary demotions. After allowing both parties to fully brief the issue and after hearing oral arguments, the Board found that it does have jurisdiction over disciplinary and non-disciplinary demotions, denied the motion for summary judgment and reversed the agency action for failure to comply with the provisions of the Civil Service Act. The appellant appealed the Board's decision to the District Court. The District Court remanded the matter back to the Board for a determination as to whether the reorganization was conducted improperly with respect to the appellant. The appellant withdrew her appeal prior to the scheduled hearing date.
12. **Name Removed**, 3-day suspension *affirmed*  
**Lansing Correctional Facility**  
Correctional Officer II. The appellant discharged a pepperball gun during a training class in a classroom at LCF. The appellant did not have authority to discharge the weapon, was not the instructor for the training class and had not taken safety precautions prior to discharging the weapon. Instead, the appellant took the weapon from a table, loaded it and fired it across the front of the classroom between the instructor and the students, striking the entry door to the classroom. The appellant had previously received a letter of reprimand for engaging in horseplay with a pepperball gun which resulted in injury to another officer. After hearing all of the evidence, the Board affirmed the decision of the appointing authority.
13. **Name Removed**, demotion *dismissed*  
**Osawatomie State Hospital**  
Public Service Executive II. The appellant's position was part of a reorganization and he was permitted to apply for his former position. He was not selected for that position and was given a position at a significantly lower pay range and step. The appellant filed an appeal with the Board and the agency subsequently reevaluated its decision with respect to the appellant's position. The appellant was then reinstated to a Public Service Executive II position with the same rate of pay and benefits he received prior to the proposed demotion. Because the agency reversed its

decision and no adverse action was taken by the agency with respect to the appellant's job classification, pay rate and benefits, the matter was dismissed for lack of jurisdiction.

14. **Name Removed**, demotion *dismissed*  
**Kansas Department of Social and Rehabilitation Services**  
Human Service Specialist. The appellant was promoted to a Human Service Supervisor. Prior to the end of his probationary period, he received an unsatisfactory performance evaluation and was consequently demoted back to his Human Service Specialist position. The agency filed a motion for summary judgment and the appellant filed a response to that motion. After considering the motion, response, reply, applicable facts and law, the Board found that it lacked jurisdiction to hear the appellant's appeal and the matter was dismissed.
15. **Name Removed**, 15-day suspension without pay *affirmed*  
**Topeka Correctional Facility**  
Corrections Officer II. The appellant used thousands of hours of sick leave, vacation leave, Family and Medical Leave Act and unpaid leave over the course of three years. Over that time she only reported for duty between 54% and 75% of the time. After she had exhausted her FMLA leave in May 2005, she was informed that any further absences that could not be covered by sick or vacation leave would be considered unauthorized and disciplinary action would be taken against her. She received a 1-day suspension in July for an unauthorized absence. She received a 3-day suspension later in July for another unauthorized absence. She then received this 15-day suspension in August for two additional days of unauthorized absence. After hearing all of the evidence, the Board found the decision of the appointing authority to be reasonable.
16. **Name Removed**, 15-day suspension without pay *dismissed*  
**Topeka Correctional Facility**  
Corrections Officer II. The appellant used thousands of hours of sick leave, vacation leave, Family and Medical Leave Act and unpaid leave over the course of three years. Over that time she only reported for duty between 54 and 75% of the time. After she had exhausted her FMLA leave in May 2005, she was informed that any further absences that could not be covered by sick or vacation leave would be considered unauthorized and disciplinary action would be taken against her. She received a 1-day suspension in July for an unauthorized absence. She received a 3-day suspension later in July for another unauthorized absence. She then received this 15-day suspension in August for two additional days of unauthorized absence. She then received a second 15-day suspension for failing to report to work as scheduled on November 17, 2005 without having sufficient leave time accrued to cover the absence. The appellant failed to appear for her scheduled hearing and a default order was issued against her.

B. Cases Filed Between January 15, 2006 and April 15, 2006:

1. Topeka Correctional Facility, filed January 20, 2006
2. Osawatomie State Hospital, filed January 23, 2006
3. Osawatomie State Hospital, filed January 27, 2006
4. Lansing Correctional Facility, filed February 3, 2006
5. Department of Administration, filed February 13, 2006
6. Kansas State University, filed February 17, 2006
7. Health and Environment, filed February 20, 2006
8. Kansas Highway Patrol, filed February 28, 2006
9. Department of Revenue, filed March 7, 2006

10. Department of Revenue, filed March 13, 2006
11. Department of Transportation, filed March 14, 2006
12. Department of Corrections, filed March 21, 2006
13. Department of Corrections, filed March 23, 2006
14. Department of Transportation, filed March 28, 2006
15. Department of Corrections, filed March 28, 2006
16. Department of Corrections, filed March 29, 2006
17. Highway Patrol, filed April 7, 2006
18. Osawatomie State Hospital, filed April 7, 2006
19. Wichita State University, filed April 7, 2006
20. Kansas Neurological Institute, filed April 7, 2006

C. Cases Still To Be Heard:

1. demotion, Department of Corrections, set 5/1/06
2. dismissal, Kansas Highway Patrol, set 4/3/06
3. 20-day suspension, Wichita State University, set 5/22/06
4. dismissal, Social and Rehabilitation Services, set 6/6/06
5. 3-day suspension, Department of Corrections, set 5/15/06
6. dismissal, Department of Transportation, set 5/18/06
7. 3-day suspension, Animal Health Department, set 5/17/06
8. dismissal, Department of Corrections, set 5/16/06
9. 1-day suspension, Department of Corrections, set 4/20/06
10. dismissal, Osawatomie State Hospital, set 6/21/06
11. ????, Department of Transportation, set 4/18/06
12. 5-day suspension, KU Medical Center, set 6/22/06
13. dismissal, Department of Corrections, set 5/2/06
14. dismissal, Department of Transportation, set 7/20/06
15. dismissal, Social and Rehabilitation Services, set 4/19/06
16. dismissal, Osawatomie State Hospital, set 6/21/06
17. dismissal, Highway Patrol, set 5/16/06
18. dismissal, Wildlife and Parks, set 5/3and 5/4/06
19. dismissal, Parsons State Hospital, set 5/18/06
20. dismissal, Department of Administration, set 8/10/06
21. dismissal, Osawatomie State Hospital, set 7/19/06
22. dismissal, Osawatomie State Hospital, set 5/15/06
23. dismissal, Osawatomie State Hospital, set 5/19/06
24. dismissal, Osawatomie State Hospital, set 5/15/06
25. 30-day suspension, Department of Revenue, set 10/18-20/06
26. dismissal, Department of Revenue, set 10/18-20/06
27. dismissal, Kansas Neurological Institute, set 5/22/06
28. dismissal, Social and Rehabilitation Services, set 8/9/06
29. dismissal, Department of Revenue, set 9/19/06
30. dismissal, Highway Patrol, set 6/7/06
31. dismissal, Kansas State University, set 5/17/06

D. Statistics for Completed Cases:

1. Dismissals: 4
2. Demotions: 4

- 3. Suspensions: 8
- 4. Other: 0

- 1. Affirmed: 9
- 2. Reversed: 0
- 3. Modified: 1
- 4. Dismissed: 3
- 5. Withdrawn: 3

- 1. Social and Rehabilitation Services: 6
- 2. Department of Corrections: 5
- 3. Department of Transportation: 2
- 4. Kansas State University: 1
- 5. Health and Environment: 1
- 6. Department of Labor: 1